

1.0 INTRODUCTION

The Montana Department of Environmental Quality (DEQ) solicited public comment on the May 2013 Explanation of Significant Difference (ESD) for the Kalispell Pole & Timber, Reliance Refinery, and Yale Oil Facilities, collectively referred to as the KRY Site) in Kalispell, Montana during a public comment period that ran from May 6, 2013, to June 4, 2013. DEQ received written comments from one entity during the public comment period.

1.1 Notification of Public Comment Period on the ESD

Although not required by state law, DEQ solicited public comment on the ESD. DEQ published notice of the public comment period on the ESD in the Kalispell Daily Interlake, a daily newspaper. DEQ sent notice of the public comment period to the liable persons at the KRY Site as well as the Flathead County Health Department and Glacier Stone Supply. DEQ also posted notice of the public comment period and the ESD on its website, sent a copy of the ESD to the Flathead County Library, and made a copy of the ESD available at DEQ's offices at 1100 Last Chance Gulch, Helena, Montana.

1.2 Explanation of Responsiveness Summary

All comments received during the public comment period on the ESD have been reviewed and considered by DEQ in the decision making process and are addressed in this Responsiveness Summary. Each specific comment is stated verbatim.

1.3 Changes to the ESD

Other than the changes to the ESD made as a result of public comment which are explained in Section 2.1, the only other revision made to the May 2013 ESD was editorial in nature. Specifically, the cover pages to the May 2013 ESD refer to "significant difference" and the references should have been plural ("significant differences"). In addition, DEQ updated Section 4.0 (Public Participation) to reflect the completion of the public comment period. The ESD will be finalized with corrected cover pages and a June 2013 date.

2.0 RESPONSES TO WRITTEN COMMENTS

2.1 Comments from BNSF Railway Company (BNSF)

BNSF Comment: Section 1.2 would benefit from a few sentences that explain the role of other parties in implementing the ROD, such as the Montana Department of Natural Resources, Swank Enterprises, Montana Mokko and Stillwater Forest Products. Following is suggested text for Section 1.2.

"Several additional entities signed Consent Decrees with MDEQ and are

participating in portions of the selected remedy. Klingler Lumber Company, Montana Mokko, Inc., and Stillwater Forest Products, Inc. have agreed to provide access to MDEQ and BNSF to implement the remedy and they must record and abide by land use restrictions affecting their respective properties. The Montana Department of Natural Resources and Swank Enterprises, Inc. agreed to reimburse MDEQ for a percentage of the cost of cleanup."

DEQ Response: In the ESD, DEQ identified BNSF's role in the cleanup because the Court found BNSF jointly and severally liable for the KRY Site cleanup and BNSF is the implementing entity. Also, as points of clarification, (1) the Montana Department of Natural Resources and Conservation (DNRC) and Swank Enterprises agreed to reimburse DEQ's "remedial action costs" as well as those remedial action costs incurred by persons conducting DEQ-approved remedial actions (not just DEQ for a portion of cleanup costs); and (2) Klingler Lumber Company does not have a Consent Decree with DEQ but rather entered into a settlement agreement. With these clarifications and in response to this comment, DEQ has revised Section 1.2 of the ESD and inserted the following sentences:

Several additional entities signed Consent Decrees with DEQ and are participating in portions of the selected remedy. Montana Mokko, Inc., the Montana Department of Natural Resources and Conservation (DNRC), Stillwater Forest Products, Inc., and Swank Enterprises have agreed to provide access to DEQ and parties conducting DEQ-approved actions to implement the remedy and these parties must also record and abide by land use restrictions affecting their respective properties. Klingler Lumber Company, Inc. also signed a settlement agreement with DEQ that has similar access and land use restriction requirements. In addition, DNRC and Swank Enterprises agreed to reimburse DEQ and parties conducting DEQ-approved remedial actions for a percentage of the cleanup costs.

BNSF Comment: *Section 2.2 describes site conditions as they existed prior to implementation of the ROD. Consider revising the first sentence to read: "Details of the KRY Site contamination prior to implementation of the selected remedy are found in the ROD (DEQ 2008) and are summarized in the following sections."*

DEQ Response: DEQ agrees with this comment and has made the requested change.